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United States Senate
WASHINGTON, DC 20510 - 3505

July 13, 2023

Lina M. Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, DC 20580

Dear Chair Khan:

We applaud your efforts to address the pernicious problem of increasing corporate concentration. Corporate concentration can lead to stifled innovation, limited consumer options, and undermine workers' ability to have a voice in the workplace. At their core, efforts to address corporate concentration share the same goal with those who support workers: to enable the American people to control their own economic destiny.

Given limited time and resources, the Federal Trade Commission (FTC) should therefore consider the ramifications for the American labor market as it evaluates next steps on the Microsoft-Activision Blizzard proposed merger. The agency's broader efforts should be aligned with those who seek to empower workers, like the nearly 10,000 workers in the technology and video game industry who would be able to join a union free from employer interference.

In collaboration with the Communications Workers of America (CWA), Microsoft agreed to a historic, legally-binding labor neutrality agreement.¹ This is an important step forward for the technology industry, and it should set the standard for this sector of the economy. As more companies adopt advanced technologies for their own production into the future, this agreement sends a signal to workers across the labor market. Workers should be empowered to form a union without facing the threat of illegal interference by large corporations.

It is important for the federal government to underscore that, in a 21st century economy, the United States will thrive when companies work collaboratively with their biggest asset: their workers. As a nation, we should hope to see a future of work where American companies and workers succeed together. Evidence from around the world is clear: companies will be most successful when they can grow while collaborating with a union-represented workforce. A union increases worker retention and productivity, while increasing standards of living for workers.

Unions also help address wealth inequality and close racial wealth gaps in the United States.² The median union household has more than twice the wealth of the median non-union household. Black households with a union

¹ Microsoft adopts principles for employee organizing and engagement with labor organizations. June 2, 2022.
<https://blogs.microsoft.com/on-the-issues/2022/06/02/employee-organizing-engagement-labor-economy/>

² <https://www.americanprogress.org/article/unions-help-increase-wealth-close-racial-wealth-gaps/>

member have more than three times the median wealth of non-union Black households. Hispanic households with a union member have more than five times the median wealth of non-union Hispanic households.

What's more, if a company works collaboratively with their union-represented workforce, they will be more likely to invest in innovation, not less. To this point, the Microsoft-CWA neutrality agreement is already proposing innovative strategies for collaboration between union members and management that should result in new technology and skill building programs for future competitiveness throughout the country.³

Microsoft's labor neutrality agreement should become the norm, not an outlier. In assessing next steps, the FTC should note that when ZeniMax studio workers announced in December that they were organizing with CWA, Microsoft did not interfere. The company has already demonstrated a commitment to this labor neutrality agreement and acted in accordance with its principles. In January, a neutral arbiter certified that ZeniMax workers are now represented by CWA. As a result, a merger between Microsoft and Activision Blizzard will help transform the technology industry into a sector that invests in its workers and honors their legal rights to collectively bargain for better working conditions.

I am thankful that the President recognized the harmful role of monopsony in our labor markets in Executive Order 14036, where he affirmed that it is the policy of the Biden administration to combat the harmful effects of monopoly and monopsony on labor markets. In cases where employers merge and subsequently lower worker wages to exploit uncompetitive local labor markets, monopsony conditions have exacerbated wage inequality and competitive options for consumers around the country.

As a reminder, however, workers are also consumers. Too often, the focus on achieving the lowest possible consumer prices comes at the cost of failing to improve working conditions in the United States when prices are considered without the corresponding assessment of worker wage gains. Preserving a viable, American gaming sector in the face of foreign competition is not anticompetitive, it is pro-worker and pro-domestic innovation. In this case, the FTC should consider the positive effect on the labor market when a large corporation adopts novel, standard-setting labor neutrality principles and honors its provisions.

I hope the FTC recognizes the historic nature of this agreement as it moves forward.

Sincerely,



Sherrod Brown
United States Senator

³ Ground-breaking agreement will enable a new approach to corporate-union engagement after Microsoft's acquisition of Activision Blizzard closes. June 13, 2022. <https://cwa-union.org/news/releases/cwa-microsoft-announce-labor-neutrality-agreement>